

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JOHN HANCOCK LIFE INSURANCE  
COMPANY, JOHN HANCOCK  
VARIABLE LIFE INSURANCE  
COMPANY and MANULIFE  
INSURANCE COMPANY,

Plaintiffs,

v.

ABBOTT LABORATORIES,

Defendant.

CIVIL ACTION NO. 05-11150-DPW

**ABBOTT'S DEPOSITION DESIGNATIONS AND COUNTER DESIGNATIONS  
FOR DIANE D'AMICO**

Defendant Abbott Laboratories ("Abbott") respectfully submits the attached deposition designations and counter-designations for the October 26, 2006 and November 28, 2006 depositions of Diane D'Amico, Senior Clinical Project Manager, Abbott Laboratories.

Dated: February 18, 2008

Respectfully submitted,

ABBOTT LABORATORIES

By:     /s/ Eric J. Lorenzini      
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**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 18, 2008.

Date: February 18, 2008.

\_\_\_\_\_  
/s/ Ozge Guzelsu





**Diane D'Amico Deposition Designations**

<b>Depo Date</b>	<b>Witness</b>	<b>Hancock Designation</b>	<b>Abbott Counter Designation</b>	<b>Abbott Designation</b>	<b>Deposition Exhibit</b>	<b>Plaintiff Exhibi</b>	<b>Defendant Exhibit</b>
10/26/06	D'Amico, Diane	20:5-21:17	None				
10/26/06	D'Amico, Diane			9:19-11:18			
10/26/06	D'Amico, Diane			24:9-27:11			
10/26/06	D'Amico, Diane			49:21-51:22			
10/26/06	D'Amico, Diane			67:3-67:19			
10/26/06	D'Amico, Diane			74:8-75:9			
10/26/06	D'Amico, Diane	76:16-77:16	76:10-76:15		8	O	
10/26/06	D'Amico, Diane			94:21-95:11			
10/26/06	D'Amico, Diane	97:24-99:11	None		9	S	
10/26/06	D'Amico, Diane	115:6-115:23	None				
10/26/06	D'Amico, Diane	118:23-120:5	None		10	AA	
10/26/06	D'Amico, Diane			150:11-152:15			
10/26/06	D'Amico, Diane			156:18-157:3			
11/28/06	D'Amico, Diane	227:14-228:2	None		27	N	
11/28/06	D'Amico, Diane	228:14-229:3	None		27	N	
11/28/06	D'Amico, Diane	231:1-231:21	231:22-232:16		27	N	

Depo Date	Witness	Hancock Designation	Abbott Counter Designation	Abbott Designation	Deposition Exhibit	Plaintiff Exhibi	Defendant Exhibit
11/28/06	D'Amico, Diane	240:8-241:5	None		27	N	
10/26/06	D'Amico, Diane			258:16-260:8			
10/26/06	D'Amico, Diane			276:20-277:13			
11/28/06	D'Amico, Diane	294:21-295:4	294:15-294:20		32	3	
11/28/06	D'Amico, Diane	295:17-296:7	295:5-295:16		32	3	
11/28/06	D'Amico, Diane	302:10-303:8	302:4-302:9		34	AP	
11/28/06	D'Amico, Diane	302:10-303:8	303:9-303:12				
11/28/06	D'Amico, Diane	308:7-309:6	None		35	AQ	
11/28/06	D'Amico, Diane	329:3-330:9	330:10-331:1		41	MI	
11/28/06	D'Amico, Diane	341:9-341:19	341:20-342:16		41	MI	
11/28/06	D'Amico, Diane	374:8-375:5	None		43	AY	



## **Color Key to Deposition Designations**

 **Designation by Plaintiffs**

 **Counter Designation by Defendants**

 **Designation by Defendants**

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 DISTRICT OF MASSACHUSETTS  
4  
5 JOHN HANCOCK LIFE INSURANCE )  
6 COMPANY, JOHN HANCOCK )  
7 VARIABLE LIFE INSURANCE )  
8 COMPANY, and MANULIFE )  
9 INSURANCE COMPANY (f/k/a )  
10 INVESTORS PARTNER INSURANCE ) Civil Action No.  
11 COMPANY), ) 05-11150-DPW  
12 Plaintiffs, )  
13 -vs- )  
14 ABBOTT LABORATORIES, )  
15 Defendant. )  
16  
17 The videotaped deposition of DIANE  
18 D'AMICO, called for examination, taken pursuant to  
19 the Federal Rules of Civil Procedure of the United  
20 States District Courts pertaining to the taking of  
21 depositions, taken before THERESA A. VORKAPIC, a  
22 Notary Public within and for the County of Kane,  
23 State of Illinois, and a Certified Shorthand  
24 Reporter, CSR No. 84-2589, of said state, at Suite

# PART 2

D'Amico, Diane (Vol.1) (Not Linked) 10/26/2008 9:10:00 AM

1 BY MR. ZWICKER:

2 Q. Do you have knowledge whether your hard  
3 files were searched in connection with this  
4 litigation?

5 A. I have no knowledge of that, no.

6 Q. Do you have knowledge of whether your  
7 e-mails were searched in connection with this  
8 litigation?

9 A. I have no knowledge that my particular  
10 e-mails were searched.

11 Q. But you can say that you personally did  
12 not search your e-mails and provide them to  
13 persons at Abbott, correct?

14 A. I can definitely say that, yes.

15 Q. And you can say that you personally did  
16 not search your hard files and present those that  
17 were relevant to Abbott, correct?

18 A. Correct.

19 Q. You're employed by Abbott today?

20 A. Yes.

21 Q. What's your job?

22 A. I'm a senior clinical project manager.

23 Q. How long have you held that job?

24 A. At the senior level probably about



1 three years.

2 Q. Who do you report to now?

3 A. Patricia Hintzman.

4 Q. What are your responsibilities as

5 senior clinical program manager?

6 A. I'm responsible for the oversight and  
7 management of multiple clinical trials globally.

8 Q. When you say "responsible," what do you  
9 mean?

10 A. I manage the like day-to-day activities  
11 of conducting a clinical trial. I am there as a  
12 -- you know, to ensure that the project time lines  
13 are met for that trial and, you know, I act as a  
14 liaison between the investigative sites and like  
15 the physicians that are at Abbott. I'm pretty  
16 much -- you know, kind of more in the day-to-day  
17 activities of any of the studies that are going  
18 on. I review documents and provide my input.

19 Q. As of today, how many clinical trials  
20 are you supervising?

21 A. I'd say four.

22 Q. In what ventures?

23 A. The oncology venture or the oncology  
24 group.

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1 Q. All of them?

2 A. Yes.

3 Q. Before you were senior clinical project

4 manager, what was your job at Abbott?

5 A. I was just a clinical project manager.

6 Q. How long did you have that job?

7 A. Probably about two years approximately.

8 Q. From when to when?

9 A. I think I started that role in like

10 late 2000, the end of the year 2000, so then maybe

11 two years after that, so maybe until the end of

12 2002 approximately.

13 Q. What were your responsibilities as

14 clinical project manager?

15 A. The responsibilities are essentially

16 very similar. The difference between the senior

17 is that you have more studies going on at a time

18 potentially.

19 Q. I'm going to refer to a clinical

20 project manager as a CPM. Is that okay?

21 A. Yes.

22 Q. As a CPM, were you responsible for one

23 clinical trial?

24 A. At what point?

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1 BY MR. ZWICKER:

2 Q. Is it fair to say you learned on the  
3 job?

4 A. On-the-job training, yes.

5 Q. You're familiar with a drug compound  
6 known as ABT-518, correct?

7 A. Yes.

8 Q. At some point, you became involved in  
9 the development of 518?

10 A. Yes.

11 Q. When was that?

12 A. I think it was approximately the end of  
13 like 2000, early 2001. I don't recall the exact  
14 timing, but it was probably close to the end of  
15 2000.

16 Q. When you became involved in 518, what  
17 were your responsibilities?

18 A. Well, actually it was my first program  
19 that I was a project manager on, so my  
20 responsibilities may have included like being  
21 involved with crafting the protocol for the first  
22 study, taking meeting minutes, scheduling  
23 meetings.

24 Q. When you said it was the first clinical

# PART 3



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1 trial that you were responsible for, what does

2 that mean exactly?

3 A. It was the first trial I was a project

4 manager on.

5 Q. What did you do as a project manager in

6 connection with 518?

7 A. Again, I would potentially like for the

8 studies help, you know, work on facilitating the

9 crafting of the protocol, crafting, you know,

10 meeting minutes and agendas and scheduling

11 meetings in order to get the study going,

12 answering, you know -- you work with ancillary

13 groups at Abbott as well so working with like PK

14 groups and things like that ensuring that

15 everything is set up and ready to go and the sites

16 are ready to go and getting the sites ready to go.

17 I actually was involved with that as well.

18 Q. Were you the contact person between

19 Abbott and the investigative sites?

20 A. I was one of them.

21 Q. Who else?

22 A. There were -- besides myself there was

23 a physician on the program, Todd Janus.

24 Q. He also acted as a liaison between

1 you have an opinion based on when a clinical trial  
2 begins as of the 2001 time frame?

3 MR. LORENZINI: Objection.

4 BY THE WITNESS:

5 A. Usually I guess -- I guess when a first  
6 patient takes drug, it's officially started in my  
7 opinion.

8 BY MR. ZWICKER:

9 Q. You know what a project team is,  
10 correct?

11 A. Yes. I guess -- well --

12 Q. Let me ask you a better question.

13 You have an understanding of the term  
14 "project team" as used at Abbott in connection  
15 with the development of a drug, right?

16 A. Yeah. Now we call them global project  
17 teams more than project teams, but, yes.

18 Q. In 2000, 2001 period, you called them  
19 project teams?

20 A. Probably.

21 Q. There was a project team for 518?

22 A. Yes.

23 Q. As the CPM, you remember the project  
24 team?

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1 A. Yes.

2 Q. What is the purpose of a project team  
3 in 2000, 2001?

4 A. The project team usually is comprised  
5 of folks from all the different like functional  
6 groups, for example, the clinical team which I'm a  
7 part of is just one part of the project team, but  
8 there's, you know, folks from discovery and like  
9 PK.

10 Q. What is PK? Sorry I cut you off.  
11 Continue.

12 A. Pharmacokinetics.

13 Q. What does that mean?

14 A. It's -- in my layman's terms, it's  
15 really just assessing like when you administer a  
16 drug, you do serial blood draws to see how the  
17 drug is distributed throughout the body.

18 Q. And how long it stays there?

19 A. Correct, and there's folks from  
20 regulatory and all different functional groups  
21 that help the program move.

22 Q. Did every drug under development --  
23 strike that.

24 Who did the 518 project team report to



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1 in 2000, 2001?

2 A. I'm not certain if the project team has

3 like a set leader that I can say. I know my

4 clinical project team that I was a part of, my

5 leader was probably Azme Nabulsi.

6 Q. He was your leader?

7 A. He was my venture head at the time,

8 which is what we called them, ventures.

9 Q. Do you know who Perry Nisen is?

10 A. Yes.

11 Q. What was his role in 2000, 2001? Was

12 he the venture head of oncology?

13 A. He may have been. We had two groups

14 that merged and Perry -- and I don't know exact

15 job titles and things like that, but Perry was

16 Azme's boss so he may have actually been above

17 Azme.

18 Q. Who were the other members of the

19 project team in 2000, 2001?

20 A. Well, from the clinical team it was

21 myself and there was Paige Gjalstan who was a CRA

22 working underneath me helping me do the day to

23 day. I believe that the assistant director on the

24 program was Susan Glad Anderson and the clinical



# PART 4

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1 team also has an operations element, Diane Bronson  
2 was our operations manager and Todd Janus who I  
3 already mentioned was the physician overseeing --  
4 like a medical monitor for the study and Azme, I'm  
5 not sure if he was the venture head then or what  
6 his exact title was then. That was from the  
7 clinical team. And then so from discovery I think  
8 Steve Davidson worked on the discovery piece. I  
9 recall Matt Rizer being our PK person. I'm not  
10 sure if I recall who our regulatory rep was at the  
11 time.

12 Q. Who is James Looman?

13 A. Jim Looman, he is a physician who is  
14 based in the Netherlands so he works for the  
15 Abbott affiliate so he was the kind of physician  
16 that was in the same time zone as the  
17 investigative sites for that particular study.

18 Q. By that particular study, we're talking  
19 about the Phase I clinical study for 518, correct?

20 A. Yes.

21 Q. That was otherwise known as M-00235,  
22 right?

23 A. Yes.

24 Q. Was Looman part of the project team.

1 assessment of doing routine blood draws to see how  
2 the drug is processed by your body.

3 Q. The second item is to determine a dose  
4 level for Phase II studies.

5 What does that mean?

6 A. Well, if you give multiple doses to a  
7 patient, you're trying to see which dose level  
8 will be appropriate to pursue in your future  
9 studies like Phase II and III being next, but in  
10 Phase II -- so depending upon the data you collect  
11 from a Phase I study, it helps you select a dose  
12 level for Phase II.

13 Q. Various doses or single doses?

14 A. I think you usually try to go with one.

15 Q. Turn the page to Overall Study Design  
16 and Plan. The very last sentence says: "Up to 40  
17 patients will receive ABT-518 administered  
18 orally."

19 Do you see that?

20 A. Yes.

21 Q. Does that mean that the target  
22 enrollment was 40 patients?

23 MR. LORENZINI: Objection.

24 BY THE WITNESS:

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1 A. Not necessarily. That's what you  
2 establish as how many may end up getting it. You  
3 have to kind of state that in the protocol.

4 BY MR. ZWICKER:

5 Q. Continue your answer. I'm sorry.

6 A. Just so there's an idea you have to  
7 state what potentially the maximum number of  
8 subjects may be in a protocol because you have to  
9 then state that in the informed consent for a  
10 patient when they sign it so they know how many  
11 other people might also participate.

12 Q. Was there a target enrollment for the  
13 00235 clinical study?

14 A. I think it just depends. You have  
15 enrollments per dose group, so depending upon how  
16 those go, you try to do it by dose group so there  
17 is an enrollment by dose group.

18 Q. So there was a maximum -- a target  
19 enrollment by dose group?

20 MR. LORENZINI: Objection. Mischaracterizes  
21 the testimony.

22 BY THE WITNESS:

23 A. Well, usually and in this study, too,  
24 there were three patients per dose group that you



1     tried to clear to keep going to establish your  
2     objectives that you set up.

3     BY MR. ZWICKER:

4     Q.   How many dose groups were there?

5     A.   I don't recall unless you want me to  
6     read the protocol.

7     Q.   Fair to say, though, if we multiplied  
8     the number of dose groups -- of persons and the  
9     number of gross groups, we would come up with the  
10    target enrollment?

11    MR. LORENZINI: Objection.

12    BY THE WITNESS:

13    A.   Going into a study, that may be what  
14    you plan, but sometimes you have to amend.

15    BY MR. ZWICKER:

16    Q.   So at least your initial target  
17    enrollment was the number of persons in a group  
18    times the number of groups, right?

19    MR. LORENZINI: Objection.

20    BY THE WITNESS:

21    A.   Possibly, but if you I guess reached  
22    your MTD before that you would have fewer.

23    BY MR. ZWICKER:

24    Q.   You would agree with me generally that

# PART 5

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1 if it was --

2 BY MR. ZWICKER:

3 Q. Do you recall hearing from anyone at

4 Abbott in 2001 that the results of preclinical

5 trials in any way -- strike that.

6 Do you recall hearing from anyone at

7 Abbott in 2001 that the results of preclinical

8 work cast doubt on the development or version

9 viability of 518?

10 MR. LORENZINI: Objection.

11 BY THE WITNESS:

12 A. Not that I recall, no.

13 BY MR. ZWICKER:

14 Q. It's fair to say that if preclinical

15 work had gone badly, there would not have been a

16 Phase I trial, true?

17 A. Right. That's what I meant by pre me.

18 I get in when you start getting into the "in man"

19 studies, so --

20 Q. Turn back to Page ABBT 13228 if you

21 would?

22 A. Okay.

23 Q. And focus on the first slide. The date

24 of this document is 3/7 to 3/9, 2001; do you see

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1 BY MR. ZWICKER:

2 Q. Turn to the next page, which is ABBT

3 13230.

4 A. Okay.

5 Q. Do you see a slide there that begins

6 Key Project Strengths, Positives?

7 A. Yes.

8 Q. Let's start with the line that says

9 Project Attributes, okay. On the third bullet

10 down says: "No joint toxicity expected."

11 Do you see that?

12 A. Yes.

13 Q. Did you have discussions with persons

14 on the 518 project team regarding expectations for

15 joint toxicity in 518?

16 MR. LORENZINI: That she can recall sitting

17 here today.

18 MR. ZWICKER: That's a predicate to every

19 question that ever gets asked in every deposition.

20 BY THE WITNESS:

21 A. I remember just in general the concept

22 that we weren't expecting joint toxicity in our

23 compound.

24 BY MR. ZWICKER:



1 Q. Based on those conversations, why did  
2 Abbott have that expectation?

3 A. I believe it had to do with the fact  
4 that we were more selective, gel A and gel B  
5 selective, whatever that means, I'm not a hundred  
6 percent positive. That was why we thought we  
7 weren't going to see that. I recall hearing that  
8 at one of the teams where maybe discovery or  
9 somebody was talking about it.

10 Q. Move down a bullet to Time to Market.  
11 Do you see potential for fast track approval?

12 A. Yes.

13 Q. Did you have discussions with persons  
14 within Abbott regarding fast track approval for  
15 518?

16 A. Not that I recall.

17 Q. Further down the page is a bullet point  
18 called Business Franchise Strength; do you see  
19 that?

20 A. Yes.

21 Q. It says synergies with HPD and ADD?

22 A. Yes.

23 Q. What is HPD?

24 A. HPD is Abbott's Hospital Products

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1 Division.

2 Q. Do you have an understanding of what  
3 the synergies were between 518 and HPD?

4 A. Yes.

5 Q. What is ADD?

6 A. Abbott Diagnostic Division.

7 Q. Do you have an understanding of what  
8 the synergies were between ADD and 518?

9 A. No.

10 (WHEREUPON, a certain document

11 was marked D'Amico Deposition

12 Exhibit No. 8, for identification,

13 as of 10/26/06.)

14 (WHEREUPON, the document was

15 tendered to the witness.)

16 MR. ZWICKER: The record should reflect that

17 before the witness is D'Amico Exhibit No. 8, which

18 is a document entitled MMPI Working Group Minutes,

19 March 8, 2001 and it bearing Bates Nos. 300143

20 through 300144.

21 BY MR. ZWICKER:

22 Q. Ms. D'Amico, do you recognize

23 Exhibit 8?

24 A. Only the format. This is a meeting

# PART 6

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1 minutes that would have been put out from the  
2 working group meetings, yes.

3 Q. Was it your responsibility to compile  
4 the minutes from the MMPI working group?

5 MR. LORENZINI: Objection.

6 BY THE WITNESS:

7 A. Sometimes, yes.

8 BY MR. ZWICKER:

9 Q. Was it your responsibility to compile  
10 the minutes for the March 8 meeting?

11 A. I don't remember.

12 Q. Would it have been your responsibility  
13 to compile the minutes for the March 8 meeting  
14 with respect to the clinical update?

15 A. To check them that they were accurate  
16 potentially if I wasn't the one doing it, yes.

17 Q. Who took notes?

18 MR. LORENZINI: Objection.

19 BY THE WITNESS:

20 A. Who took notes --

21 BY MR. ZWICKER:

22 Q. At the meeting?

23 A. -- at the meeting, I suppose anyone  
24 that was in attendance, but I don't recall who was



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1 A. I would be told, yeah.

2 Q. You would be what?

3 A. I would probably be told.

4 Q. You would be told?

5 A. That it would have an impact on my

6 study and what we needed to do.

7 Q. Let's go back to the minute notes,

8 Exhibit 8.

9 A. Okay.

10 Q. It says: "We will proceed with the

11 Phase I trial."

12 Do you see that?

13 A. Yes.

14 Q. What discussions do you recall

15 regarding why Abbott decided to proceed with the

16 Phase I trial for 518?

17 MR. LORENZINI: Objection. Lacks foundation.

18 BY THE WITNESS:

19 A. I don't recall any discussions.

20 BY MR. ZWICKER:

21 Q. If you look further down, it says:

22 "Preclinically our compound differs from the

23 competition. In addition, the competitors may

24 have dosed too low. May have not selected the



1 proper tumor stages and skipped Phase II

2 development."

3 Do you see that?

4 A. Yes.

5 Q. Do you recall discussions around

6 distinguishing 518 from its competitors?

7 MR. LORENZINI: Objection.

8 BY THE WITNESS:

9 A. Like I said, just what I said earlier

10 that we weren't expecting joint toxicity so we

11 could dose higher.

12 BY MR. ZWICKER:

13 Q. I'm asking you a different question.

14 I'm asking you whether on March the 8th, 2001

15 whether you recall an effort to distinguish 518

16 from its competitors?

17 A. I don't recall discussion.

18 Q. Ms. D'Amico, on or around March the

19 8th, 2001, did you come away from the MMPI working

20 group meeting with a sense that the outlook for

21 the continued development of 518 was not good?

22 MR. LORENZINI: Objection. Lacks foundation.

23 BY THE WITNESS:

24 A. I don't remember being at the meeting.

1 the sites in the Netherlands and tell them that

2 the clinical study had been halted?

3 MR. LORENZINI: Objection.

4 BY THE WITNESS:

5 A. I don't recall that.

6 BY MR. ZWICKER:

7 Q. That would be a pretty big deal,

8 wouldn't it?

9 MR. LORENZINI: Objection.

10 BY THE WITNESS:

11 A. I guess if you're stopping the studies,

12 yeah, or a study.

13 BY MR. ZWICKER:

14 Q. I'm sorry, could you repeat your

15 testimony?

16 A. If you were stopping a study, I guess,

17 yeah, it would be a big decision.

18 BY MR. ZWICKER:

19 Q. Abbott's got a lot invested in these

20 clinical studies, right?

21 MR. LORENZINI: Objection.

22 BY THE WITNESS:

23 A. Any study is an investment, yes.

24 (WHEREUPON, a certain document

# PART 7

D'Amico, Diane (Vol.1) (Not Linked) 10/26/2008 9:10:00 AM

1 was marked D'Amico Deposition

2 Exhibit No. 9, for identification,

3 as of 10/26/06.)

4 (WHEREUPON, the document was

5 tendered to the witness.)

6 MR. ZWICKER: The record should reflect that

7 before the witness is Exhibit No. 9 which is an

8 e-mail from Diane D'Amico to various persons dated

9 March the 12th, 2001, subject is M-00235 update.

10 BY MR. ZWICKER:

11 Q. Do you have that document in front of

12 you?

13 A. Yes.

14 Q. Do you recognize it?

15 A. That it's an e-mail that I sent, yes.

16 Q. You recognize it as an e-mail that you

17 sent?

18 A. Yes.

19 Q. Does it refresh your recollection that

20 on March the 12th you were directed to halt the

21 M-00235 study?

22 MR. LORENZINI: Objection.

23 BY THE WITNESS:

24 A. I don't recall having even sent the



1 e-mail, but per the e-mail it reflects that.

2 BY MR. ZWICKER:

3 Q. You have no reason to doubt the

4 accuracy of this e-mail, correct?

5 A. That's correct.

6 Q. And you have no reason to doubt that

7 you were instructed to halt the M-00235 study,

8 right?

9 MR. LORENZINI: Objection.

10 BY THE WITNESS:

11 A. Correct.

12 BY MR. ZWICKER:

13 Q. You testified earlier that 518 was the

14 first time you ever acted as a CPM, right?

15 A. Yes.

16 Q. So I would be right, wouldn't I, that

17 you would not have been the person to have made

18 the decision to halt the 00235 study?

19 A. Correct.

20 Q. You would never have authority to do

21 that, would you?

22 A. No.

23 Q. Who told you to halt the study?

24 MR. LORENZINI: Objection. Mischaracterizes



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1 BY MR. ZWICKER:

2 Q. Let me ask you a different question.

3 Did you learn in March of 2001 that John Hancock

4 had invested in ABT-518?

5 A. No.

6 Q. On March 12, 2001, you wouldn't have

7 invested in 518, would you?

8 MR. LORENZINI: Excuse me. Could you read

9 the question back?

10 (WHEREUPON, the record was

11 read by the reporter.)

12 MR. LORENZINI: Objection.

13 BY MR. ZWICKER:

14 Q. Would you?

15 MR. LORENZINI: Objection. Calls for

16 speculation, hypothetical. You're asking whether

17 she personally would have invested in 518?

18 BY MR. ZWICKER:

19 Q. Can you answer the question?

20 MR. LORENZINI: Objection.

21 BY THE WITNESS:

22 A. I don't do a lot of investing, but I

23 think I would have waited if it was me personally.

24 MR. LORENZINI: Can we take a short break?

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1 saved it in my inbox, no, that's not my typical  
2 process.

3 BY MR. ZWICKER:

4 Q. What is your process?

5 A. To put it in a study-related folder.

6 Q. And you keep those folders?

7 MR. LORENZINI: Objection.

8 BY THE WITNESS:

9 A. Electronic on my e-mail.

10 BY MR. ZWICKER:

11 Q. You keep them?

12 A. Generally speaking.

13 Q. But to your knowledge, no one at Abbott

14 searched that file; is that right?

15 MR. LORENZINI: Objection. Calls for

16 speculation. Lacks foundation.

17 BY THE WITNESS:

18 A. I don't know if anybody searched my

19 e-mails.

20 BY MR. ZWICKER:

21 Q. You didn't?

22 A. No.

23 Q. Let's mark the next exhibit which is

24 ten.

# PART 8

1 MR. ZWICKER: The record should reflect that  
2 before the witness is D'Amico Exhibit No. 10 which  
3 is a chain of e-mails dated March 16 through March  
4 19, 2001.

5 BY MR. ZWICKER:

6 Q. Ms. D'Amico, if you could, take a look  
7 at the very last e-mail in the chain, the one  
8 dated March 16, 2001 from you to various persons.

9 Do you see that?

10 A. Yes.

11 Q. Do you recognize --

12 MR. LORENZINI: Can the witness have a chance  
13 to read the document? I think in fairness, that  
14 would be good.

15 MR. ZWICKER: Yeah. Sure. Take your time  
16 reading it.

17 THE WITNESS: Okay.

18 BY MR. ZWICKER:

19 Q. Did you see this document in your  
20 preparation for your deposition?

21 A. Yes.

22 Q. Do you recognize this document?

23 A. I recognize it as an e-mail, but I  
24 don't recall like prior to seeing it again

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1 yesterday, I didn't recall the document.

2 Q. You have no doubt that it is, however,

3 an e-mail from you to various persons on March the

4 16th, 2001, correct?

5 A. I have no reason to question that, no.

6 Q. In the e-mail, you say: "Dear Jim,

7 Willy and Else, what a long week this has been.

8 Not only was this week long, but it was filled

9 with ups and downs. Todd, Paige and I came in

10 Monday to learn that the MMPI project had been put

11 on hold. The next day we learned that the hold

12 had been lifted. I just hope that the next week

13 will be a little less eventful."

14 Did I read that correctly?

15 A. Yes.

16 Q. Who told you that the hold had been

17 lifted?

18 A. I don't recall.

19 Q. Was it significant to you that the hold

20 had been lifted?

21 MR. LORENZINI: Objection.

22 BY THE WITNESS:

23 A. I don't -- I mean -- I think that

24 there's always like a possibility of back and



1 back or do you have it in mind?

2 MR. ZWICKER: She's answering it.

3 BY THE WITNESS:

4 A. You know, I don't know what I would do

5 as a PI. I guess it would depend on the

6 circumstance surrounding it. I don't know.

7 BY MR. ZWICKER:

8 Q. You were the CPM for this study,

9 weren't you?

10 A. Yes.

11 Q. And as the CPM, wouldn't you have

12 informed people working for you that the study had

13 been halted?

14 MR. LORENZINI: Objection.

15 BY THE WITNESS:

16 A. I think I actually did, but the study

17 -- you know, it was like put on hold and then

18 rereleased from hold like within the next day so I

19 can't -- there couldn't have been a huge impact

20 from that.

21 BY MR. ZWICKER:

22 Q. You told the people that work with you

23 that there had been a hold put on the study,

24 right?

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1 A. I don't recall that. I don't recall  
2 specifically telling folks. As a matter of fact,  
3 when I -- I mean, looking back at Exhibit 10, the  
4 only person that worked for me was Paige and it  
5 sounds like she learned at the same time I did.  
6 It sounds that way, but I don't recall the  
7 conversations so --

8 Q. You would agree with me that it would  
9 be the prudent thing to do to tell people working  
10 on a clinical study that the study had been  
11 halted, wouldn't you?

12 MR. LORENZINI: Objection. Vague, ambiguous.

13 BY THE WITNESS:

14 A. I think every circumstance is  
15 different. If there was additional information  
16 that was forthcoming, other decisions that might  
17 impact it you may wait, I don't know.

18 BY MR. ZWICKER:

19 Q. Your direction to the Netherlands was  
20 the study had been halted, right?

21 MR. LORENZINI: Objection. Mischaracterizes  
22 prior testimony.

23 BY THE WITNESS:

24 A. Which communication to the Netherlands

# PART 9

1 are you talking about?

2 Q. On March 12, 2001, you sent to

3 Professor Schellens: "As you know, we have been

4 instructed to halt the M-00235 study."

5 Those were your words, right?

6 MR. LORENZINI: Objection. Mischaracterizes

7 the document.

8 BY THE WITNESS:

9 A. Yes, but I also said we would have

10 further instructions the next day.

11 BY MR. ZWICKER:

12 Q. Ma'am, the first sentence of your

13 e-mail I read correctly, didn't I?

14 A. Yes, you read it correctly. But

15 there's more information in the e-mail.

16 Q. On March the 12th, you didn't tell

17 Professor Schellens that the halt was temporary,

18 right?

19 MR. LORENZINI: Objection. Vague, ambiguous.

20 BY THE WITNESS:

21 A. I told him there would be additional

22 information forthcoming, and at the time he should

23 stop enrolling patients at his site at that time.

24 BY MR. ZWICKER:



1 A. No, the only reference is to a delay in  
2 the timing.

3 Q. Mr. Deemer says in the second sentence  
4 of his e-mail, on the ABT-518 program, he noted  
5 that Phase I must have started on December 2000  
6 but, in fact, did not start until earlier this  
7 month. Did I read that correctly?

8 A. Yes.

9 Q. I think you testified that the first  
10 patient had not been enrolled in the study until  
11 March 12, correct?

12 MR. LORENZINI: Objection. Mischaracterizes  
13 prior testimony.

14 BY THE WITNESS:

15 A. I recall reading --

16 BY MR. ZWICKER:

17 Q. Take a look at Exhibit No. 7.

18 A. Yes. In Exhibit No. 7, it says the  
19 first patient was enrolled on March 12, but like I  
20 also said, there were a lot of things that went up  
21 into getting ready for that first patient to be  
22 enrolled, so --

23 Q. That occurred before March of 2001?

24 A. Yeah. Like going over the initiation



1 in February and things like that, so there were  
2 certainly activities getting the study started  
3 that early.

4 Q. You were responsible for the portion of  
5 Exhibit 7 that relates to the enrollment of the  
6 first patient, right?

7 MR. LORENZINI: Objection. Lacks foundation.  
8 BY THE WITNESS:

9 A. I may have supplied that information  
10 for this report. I'm aware of when the first  
11 patient is enrolled in a study.

12 BY MR. ZWICKER:

13 Q. Do you think Mr. Deemer's statement  
14 that the study started earlier this month is an  
15 accurate statement given what you know about the  
16 Phase I clinical trial for 518?

17 MR. LORENZINI: Objection. Lacks foundation.  
18 Calls for speculation, vague, ambiguous.

19 BY THE WITNESS:

20 A. In some ways it started before that so  
21 I don't know before, earlier in the month in  
22 February is when I recall being over there,  
23 overseas.

24 BY MR. ZWICKER:

Duppo Z

# PART 2

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 DISTRICT OF MASSACHUSETTS  
4  
5 JOHN HANCOCK LIFE INSURANCE )  
6 COMPANY, JOHN HANCOCK )  
7 VARIABLE LIFE INSURANCE )  
8 COMPANY, and MANULIFE )  
9 INSURANCE COMPANY (f/k/a )  
10 INVESTORS PARTNER INSURANCE ) Civil Action No.  
11 COMPANY), ) 05-11150-DPW  
12 Plaintiffs, )  
13 -vs- )  
14 ABBOTT LABORATORIES, )  
15 Defendant. )  
16 HIGHLY CONFIDENTIAL  
17  
18 November 28, 2006,  
19 9:06 a.m.  
20  
21 The confidential videotaped deposition  
22 of DIANE D'AMICO resumed pursuant to adjournment  
23 at Suite 1300, Two North LaSalle Street, Chicago,  
24 Illinois.

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1 So you may want to have a conversation with your  
2 colleague to try to gain some consistency on this  
3 practice, but for the time being --

4 MR. ZWICKER: Well, I've reviewed some of  
5 those transcripts and I don't agree with your  
6 characterization of them, and obviously I disagree  
7 with the position you're taking here.

8 BY MR. ZWICKER:

9 Q. Ms. D'Amico, were you shown documents  
10 that contained your handwritten notes that  
11 refreshed your recollection regarding discussions  
12 of Abbott's competitors in the development of 518?

13 A. No.

14 (WHEREUPON, a certain document  
15 was marked D'Amico Deposition  
16 Exhibit No. 27, for identification,  
17 as of 11/28/06.)

18 (WHEREUPON, the document was  
19 tendered to the witness.)

20 MR. ZWICKER: The record should reflect that  
21 before the witness is a document entitled MMPI  
22 Monthly Meeting Agenda dated March 8, 2001.

23 BY MR. ZWICKER:

24 Q. Ms. D'Amico, would you review Exhibit



1 No. 27 and let me know when you've done so?

2 A. Yes.

3 MR. LORENZINI: I'd like to object on the

4 record that there is some highlighting --

5 MR. ZWICKER: The highlighting is mine. It

6 was in the wrong color. It was not as produced.

7 The document produced had no shading on it.

8 MR. LORENZINI: Thank you for that

9 clarification.

10 MR. ZWICKER: One of the many skills you

11 learn as a lawyer is that blue highlighting copies

12 and yellow highlighting doesn't.

13 BY MR. ZWICKER:

14 Q. Ms. D'Amico, do you recognize the

15 handwriting on this document?

16 A. Yes, it's mine.

17 Q. All of it?

18 A. Yes.

19 Q. Fair to say that you attended the MMPI

20 monthly meeting on March the 8th, 2001?

21 A. Yes.

22 Q. And that you were the designated note

23 taker for that meeting?

24 A. That part I don't recall.

1 Q. Were other persons taking notes as  
2 well?

3 A. I don't recall.

4 Q. I think you testified at your last  
5 deposition that one person was designated the note  
6 taker for meetings involving 518; do you recall  
7 that testimony?

8 A. I don't remember saying that.

9 (WHEREUPON, a certain document  
10 was marked D'Amico Deposition  
11 Exhibit No. 28, for identification,  
12 as of 11/28/06.)

13 (WHEREUPON, the document was  
14 tendered to the witness.)

15 BY MR. ZWICKER:

16 Q. If you wouldn't mind turning to Page 78  
17 of your deposition from October 26 beginning with  
18 line 2 on Page 78. Let me know when you're there.

19 A. Okay.

20 Q. The question: "For each MMPI Working  
21 Group meeting, was a person designated to take  
22 notes? Answer: It seems likely, yes, that  
23 somebody took notes at each one. Question: Were  
24 you ever the designated person? Yeah, I'm sure I

# PART 3

1 Q. As note taker for the March 8 meeting,  
2 is it fair to say that were you tasked with  
3 writing down significant statements by attendees  
4 at the meeting?

5 MR. LORENZINI: Objection.

6 BY THE WITNESS:

7 A. If I was issuing the meeting minutes,  
8 then, yes.

9 BY MR. ZWICKER:

10 Q. Well, you were taking notes, weren't  
11 you?

12 A. It looks like I took notes, yes.

13 Q. In taking notes, your objective was to  
14 write down everything that people said that you  
15 viewed was important, right?

16 A. I took notes indicating what the gist  
17 of what was going on, yes.

18 Q. And you made a judgment to write down  
19 things that in your view were important, true?

20 A. They may have been or may not have  
21 been, yes, but --

22 Q. You weren't out to write things that  
23 were unimportant, were you?

24 MR. LORENZINI: Objection.



1 BY THE WITNESS:

2 A. You know, whatever was important I  
3 guess to me but may not have been important to  
4 others. I don't know.

5 BY MR. ZWICKER:

6 Q. You were a member of the 518 team,  
7 weren't you?

8 A. Correct.

9 Q. And you had confidence that you would  
10 be able to distinguish an important fact from an  
11 irrelevant one, right?

12 A. I mean, this was kind of new to me. It  
13 was a whole new endeavor being a project manager,  
14 so I may have indicated things on here that  
15 weren't important, but I was just taking notes for  
16 myself.

17 Q. Did you try to write down everything  
18 everybody said?

19 A. I don't recall.

20 Q. You tried to write down things that you  
21 thought were worth writing down, right?

22 A. I guess, yes.

23 Q. Were you then responsible for  
24 transcribing your handwritten notes into meeting



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1 sure why. I vary.

2 Q. So it's your testimony sitting here

3 today that you didn't mean to indicate that

4 something written in capital letters was more

5 important than something written in lower case

6 letters?

7 A. Correct.

8 Q. Fair to say you took these notes during

9 the course of your regular business activities at

10 Abbott, right?

11 A. Yes.

12 Q. And that these notes to the best of

13 your knowledge accurately reflect what was said

14 during the March 8th meeting?

15 MR. LORENZINI: Objection.

16 BY THE WITNESS:

17 A. They certainly reflect my

18 interpretation of what was said, yes.

19 BY MR. ZWICKER:

20 Q. You intended to capture what people

21 said at the meeting, right?

22 MR. LORENZINI: Objection.

23 BY MR. ZWICKER:

24 Q. That was your intention, right?

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1 A. Yes, I would hope to take notes that  
2 were correct.

3 Q. You took these notes during the meeting  
4 itself, right?

5 A. Yes.

6 Q. Let's focus on Roman numeral No. I,  
7 Clinical; do you see that?

8 A. Yes.

9 Q. The first typewritten entry on the left  
10 side of the document is: "Leiden portfolio  
11 review."

12 Do you see that?

13 A. Yes.

14 Q. And immediately to the right of that is  
15 3/7, right?

16 A. Correct.

17 Q. Do you agree with me that by writing  
18 down March 7th that you intended to signify that  
19 the Leiden portfolio review for 518 took place on  
20 March 7th?

21 A. Yes. That's probably what I meant.

22 Q. Who was the person that summarized the  
23 Leiden portfolio review on March 7th?

24 MR. LORENZINI: Objection.

# PART 4

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1 posed the question: "How can we continue if  
2 competition is dropping out?"

3 MR. LORENZINI: Objection.

4 BY THE WITNESS:

5 A. No, I don't.

6 BY MR. ZWICKER:

7 Q. You would agree with me, wouldn't you,  
8 that if the question were posed on an MMPI Working  
9 Group meeting: "How can we continue if  
10 competition is dropping out" that that would be a  
11 significant issue?

12 MR. LORENZINI: Objection.

13 BY THE WITNESS:

14 A. I don't know the significance of it.

15 BY MR. ZWICKER:

16 Q. Ms. D'Amico, on March 8, 2001, the MMPI  
17 Working Group is wrestling with the question about  
18 whether 518 development should continue, correct?

19 MR. LORENZINI: Objection.

20 BY THE WITNESS:

21 A. I don't recall, but based on the  
22 meeting minutes, it looks like the team was in  
23 support of continuing.

24 BY MR. ZWICKER:



1 Q. That's not my question. My question is  
2 that on March 8th, the MMPI Working Group was  
3 debating whether or not development of 518 should  
4 continue, right?

5 MR. LORENZINI: Objection.

6 BY THE WITNESS:

7 A. I don't recall.

8 BY MR. ZWICKER:

9 Q. Look at your notes. That's what your  
10 notes say, doesn't it?

11 MR. LORENZINI: Objection.

12 BY THE WITNESS:

13 A. I don't recall any debate.

14 BY MR. ZWICKER:

15 Q. You would agree with me that someone  
16 posed the question: "How can we continue if  
17 competition is dropping out," right?

18 MR. LORENZINI: Objection.

19 BY MR. ZWICKER:

20 Q. You would agree with me about that?

21 A. Based on my notes, it appears as if  
22 that question was asked.

23 Q. You would agree with me that once that  
24 question was posed there was a discussion, right?



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1 MR. LORENZINI: Objection.

2 BY THE WITNESS:

3 A. Based on my notes.

4 BY MR. ZWICKER:

5 Q. That there was a discussion?

6 A. Based on my notes, it appears that  
7 there were reasons given as to why we should  
8 continue.

9 Q. My question is you would agree with me  
10 that there was discussion about whether or not to  
11 continue developing 518?

12 MR. LORENZINI: Objection.

13 BY THE WITNESS:

14 A. I don't recall if it was a discussion.

15 BY MR. ZWICKER:

16 Q. Based only on your notes. Don't your  
17 notes reflect a discussion?

18 MR. LORENZINI: Objection.

19 BY MR. ZWICKER:

20 Q. I'm asking you about your notes.

21 A. My notes reflect a question that was  
22 asked and rationale given for why we should  
23 continue.

24 Q. Would you agree with me that this was

1 asking?

2 BY MR. ZWICKER:

3 Q. Beginning -- for Roman numeral No. I,  
4 beginning with the sentence: "How can we continue  
5 if competition is dropping out" through the  
6 sentence that ends "he'll look at abstracts upon,"  
7 does any of the text in that paragraph relate to  
8 inappropriate tumor selection?

9 MR. LORENZINI: Objection.

10 BY THE WITNESS:

11 A. Just like that phrase, that phrase  
12 inappropriate tumor selection, is that  
13 reference --

14 BY MR. ZWICKER:

15 Q. Do you have an understanding of what  
16 that phrase means?

17 A. I'm guessing that you mean it like in  
18 respect to the drug development process. It could  
19 be the not right stage tumors.

20 Q. Ms. D'Amico, it's fair to say that  
21 based on your notes, the persons in attendance at  
22 the March 8, 2001 monthly MMPI meeting attempted  
23 to make a case for continuing development of  
24 ABT-518, correct?

# PART 5

1 MR. LORENZINI: Objection.

2 BY THE WITNESS:

3 A. Based on my notes, it appears as if  
4 rationale was given as to why we felt we should  
5 continue development of the compound and a plan of  
6 action I should say.

7 BY MR. ZWICKER:

8 Q. And the rationale was provided by the  
9 persons in attendance, correct?

10 MR. LORENZINI: Objection.

11 BY THE WITNESS:

12 A. One of the attendees, yes, would have  
13 said those things, one or more.

14 BY MR. ZWICKER:

15 Q. Before I forget, just moving along down  
16 Roman numeral I on the typewritten side, you have  
17 Vanderbilt conference on 3/12 to discuss the IND  
18 study; do you see that?

19 A. Yes.

20 Q. Can you explain to me what the  
21 Vanderbilt conference is?

22 A. I recall that University of Vanderbilt  
23 was going to perform the IND study so there was  
24 apparently a conference call that was going to be



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1 Do you see that?

2 A. Correct.

3 Q. Do you recall after having reviewed

4 this any conversations that you had with

5 Dr. Nabulsi about any conversations that he had

6 with Professor Schellens?

7 A. No, I don't.

8 Q. Who is Laurens Beerepoot?

9 A. He was someone that worked at one of

10 the sites in the Netherlands.

11 Q. A site other than the one worked at by

12 Professor Schellens?

13 A. I don't know which site he was

14 associated with.

15 (WHEREUPON, a certain document

16 was marked D'Amico Deposition

17 Exhibit No. 32, for identification,

18 as of 11/28/06.)

19 (WHEREUPON, the document was

20 tendered to the witness.)

21 MR. ZWICKER: The record should reflect that

22 before the witness is D'Amico Exhibit No. 32 which

23 is an e-mail from Diane D'Amico to Laurens

24 Beerepoot dated March the 12, 2001 at 2:59 p.m.



1 BY MR. ZWICKER:

2 Q. Could you review this document,

3 Ms. D'Amico, and let me know when you're done.

4 A. Okay.

5 Q. Does this refresh your recollection

6 regarding who Laurens Beerepoot was?

7 A. He was one of the employees that worked

8 with Dr. Zonnenberg so it would have been the

9 opposite side of Dr. Schellens, the other site.

10 Q. The second site?

11 A. They are not really numbered, but, yes,

12 one of the two sites.

13 Q. There were two sites?

14 A. Yep.

15 Q. And he was the PI at the other?

16 A. No, Zonnenberg was the PI.

17 Q. He worked for Zonnenberg. So is it

18 fair to say based on this e-mail that you not only

19 instructed Professor Schellens to halt the trial,

20 but you also instructed Dr. Beerepoot to refrain

21 from enrolling any additional patients in the

22 study at this time, right?

23 A. From this document, yes, I did instruct

24 Dr. Beerepoot or Beerepoot, I don't know if he's a

1 doctor, to refrain from enrolling additional

2 patients.

3 Q. So fair to say you were the person at

4 Abbott who instructed the sites not to enroll any

5 additional patients, right?

6 A. Yes. I communicated to the sites, both

7 of them, not to enroll any additional patients.

8 Q. Do you recall getting any response from

9 Dr. Beerepoot?

10 A. I don't.

11 Q. Now, Ms. D'Amico, isn't it a fact that

12 Abbott shut down activities relating to the

13 development of 518 over and above the Phase I

14 clinical trial?

15 MR. LORENZINI: Objection.

16 BY THE WITNESS:

17 A. I guess I need to know what time period

18 you're talking about.

19 BY MR. ZWICKER:

20 Q. Prior to the termination, the official

21 termination of ABT-518.

22 MR. LORENZINI: Objection.

23 BY THE WITNESS:

24 A. I don't know what activities you're

# PART 6

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1 Garavaila ever getting anything wrong when it came  
2 to summarizing what you told her, right?

3 A. I don't recall.

4 (WHEREUPON, a certain document  
5 was marked D'Amico Deposition  
6 Exhibit No. 34, for identification,  
7 as of 11/28/06.)

8 (WHEREUPON, the document was  
9 tendered to the witness.)

10 MR. ZWICKER: The record should reflect that  
11 before the witness is Exhibit No. 34, which is a  
12 series of e-mails between Diane D'Amico and Lise  
13 Loberg and others.

14 BY MR. ZWICKER:

15 Q. Could you review this chain of e-mails,  
16 Ms. D'Amico, and let me know when you're done.

17 A. Okay.

18 Q. Just looking at the e-mail dated May  
19 25, 2001 at 3:01 p.m., that's an e-mail from you  
20 to Diane Bronson with a CC to Lise Loberg, right?

21 A. Yes.

22 Q. And the subject is ABT-518 tox, right?

23 A. Correct.

24 Q. And tox stands for toxicology, correct?



1 A. Right.

2 Q. You write: "Diane, can Lise proceed  
3 with any of the ABT-518 activities that were  
4 previously put on hold, (i.e., very long chain  
5 fatty acid sample analysis from the six-week rat  
6 study and histopath from the three-month rat  
7 study?" I read that correctly, didn't I?

8 A. Yes.

9 Q. Does this refresh your recollection  
10 that there had been a hold placed on toxicology  
11 studies at times prior to May 25, 2001?

12 A. No.

13 Q. But you would have no reason to dispute  
14 that such a hold was placed on those studies,  
15 right, based on what you wrote?

16 A. Based on what's here, asking on Lise's  
17 behalf, it seems like there were activities that  
18 were on hold related to toxicology.

19 Q. In fact, I think you testified earlier  
20 that the only toxicology studies that were ongoing  
21 were the six-week rat study and the three-month  
22 rat study; is that right?

23 A. Those were referenced in one of the  
24 meetings, but I don't know if those are the only



D'Amico, Diane (Vol. 2) (Linked) 11/28/2006 9:06:00 AM

1 BY MR. ZWICKER:

2 Q. You thought Abbott was acting  
3 appropriately with respect to the development of  
4 this compound, right?

5 A. I don't recall that we weren't, so I  
6 guess yes.

7 (WHEREUPON, a certain document  
8 was marked D'Amico Deposition  
9 Exhibit No. 35, for identification,  
10 as of 11/28/06.)

11 (WHEREUPON, the document was  
12 tendered to the witness.)

13 MR. ZWICKER: The record should reflect that  
14 before the witness is D'Amico Exhibit No. 35,  
15 which is an e-mail from Diane Bronson to Diane  
16 D'Amico re ABT-518 tox.

17 BY MR. ZWICKER:

18 Q. And Diane Bronson writes to you: "I  
19 wouldn't authorize it just yesterday. Bob and  
20 Perry are working on some presentation for MMPI to  
21 the big dogs. I'll forward it to you. If you  
22 want to talk to Bob and see if he knows anything  
23 new, have at it. I'll forward the presentation.  
24 Diane."

1 Did I read that correctly?

2 A. Yes.

3 Q. Now, fair to say this is an e-mail from

4 Diane Bronson instructing you not to authorize

5 Lise Loberg to recommence her toxicology study?

6 A. It appears to be, yes.

7 Q. Who is Bob?

8 A. Robert Hansen.

9 Q. What did he do?

10 A. He was in operations. He also would --

11 like he did like financial -- like the financial

12 operations end of things.

13 Q. And Perry is Perry Nisen?

14 A. Yes, Perry Nisen, uh-huh.

15 Q. There is a reference here for a

16 presentation for MMPI to the big dogs.

17 Who are the big dogs?

18 A. Upper management.

19 Q. Who in your mind was upper management?

20 A. People above Perry I guess.

21 Q. Did you get a copy of the presentation

22 for the big dogs from Diane Bronson?

23 A. I don't recall.

24 Q. Did you have a conversation with Bob

# PART 7

D'Amico, Diane (Vol. 2) (Linked) 11/28/2006 9:06:00 AM

1 A. I don't recall if I took notes for this  
2 meeting or not.

3 (WHEREUPON, a certain document  
4 was marked D'Amico Deposition  
5 Exhibit No. 41, for identification,  
6 as of 11/28/06.)

7 (WHEREUPON, the document was  
8 tendered to the witness.)

9 MR. ZWICKER: The record should reflect that  
10 before the witness is D'Amico Exhibit No. 41,  
11 which is the agenda for the MMPI monthly meeting  
12 for April 12, 2001.

13 BY MR. ZWICKER:

14 Q. Ms. D'Amico, could you review the  
15 document and let me know when you're done?

16 A. Okay.

17 Q. You recognize the handwriting on this  
18 document?

19 A. Yes.

20 Q. Whose is it?

21 A. Mine.

22 Q. Is all the handwriting on this document  
23 yours?

24 A. Yes.



1 Q. Does this refresh your recollection  
2 that you were the note taker at the April 12, 2001  
3 MMPI Working Group meeting?

4 A. No.

5 Q. But you must have been, right?

6 MR. LORENZINI: Objection.

7 BY THE WITNESS:

8 A. It appears as if I took notes during  
9 the meeting.

10 BY MR. ZWICKER:

11 Q. What did you do with these notes after  
12 you took them?

13 A. It depends.

14 Q. On what?

15 A. Whether I'm tasked with issuing the  
16 meeting minutes or not.

17 Q. If you weren't tasked with the meeting  
18 minutes, what would you have done with your notes?

19 A. Filed them in a drawer.

20 Q. Who would have prepared the meeting  
21 minutes?

22 A. Potentially one of the other team  
23 members.

24 Q. Based on what notes?



1 A. Their own.

2 Q. You testified earlier that there was a  
3 primary note taker at these events, didn't you?

4 A. Typically to issue the meeting minutes  
5 someone is tasked with taking the notes, yes.

6 Q. So as the person tasked with taking the  
7 notes, you would have been the person tasked with  
8 typing the minutes, right?

9 A. If somebody was to issue the meeting  
10 minutes, that person would have had to take notes.

11 Q. You took notes for this meeting?

12 A. Yes, but any meeting attendees could  
13 have jotted notes on the agenda if they were going  
14 along, but I don't recall if I was specifically  
15 tasked with issuing the meeting notes following  
16 this particular meeting.

17 Q. Would you have provided your notes to  
18 the person tasked with taking the meeting minutes?

19 A. I may have if requested.

20 Q. Do you have any recollection of  
21 situations where you took notes at this level of  
22 detail where somebody else prepared the minutes?

23 A. One of other CRA's on the project that  
24 were learning, Paige Gjalstan, sometimes put out

D'Amico, Diane (Vol. 2) (Linked) 11/28/2006 9:06:00 AM

1 A. None of the names listed here would  
2 appear to be that, but, again, that's not an  
3 attendee list, who was present. It's just who the  
4 speakers were.

5 Q. Do you have any recollection of those  
6 present at this meeting other than those listed on  
7 the first page of this document?

8 A. No, I don't.

9 Q. Moving to the second line you say and  
10 tell me if I've read this right: "Jeff wants to  
11 kill this. ASCO results neutral dash negative; no  
12 plus."

13 Did I read that right?

14 A. Yes, except the plus really stands for  
15 like there is no positive, no positive results at  
16 ASCO.

17 Q. When you wrote "Jeff wants to kill  
18 this," you meant Jeff Leiden, right?

19 A. Yes.

20 Q. And the second part of the sentence I  
21 read says: "ASCO results neutral, negative, no  
22 positive," right?

23 A. Correct.

24 Q. When you wrote this, what you meant to

# PART 8

1 say was Jeff Leiden wants to kill this

2 irrespective of whether the ASCO results were

3 neutral, negative or positive?

4 MR. LORENZINI: Objection.

5 BY THE WITNESS:

6 A. That's actually not how I read this.

7 BY MR. ZWICKER:

8 Q. How do you read this?

9 A. I read it starting with the sentence

10 before Perry planned to kill if Leiden says no go.

11 So he hasn't said no go so there is the

12 possibility he may or may not, and then Jeff wants

13 to kill this basically if the ASCO results are

14 neutral to negative and there is no positive

15 results and then further on there is subsequent

16 possible kill scenarios.

17 Q. Who was reporting on Jeff Leiden's

18 position regarding the development of 518?

19 A. I don't recall.

20 Q. The continuation of your handwriting

21 lays out various options; do you see that?

22 A. Yes.

23 Q. Let's start with option zero, do you

24 see that?



1 A. I can't speak on behalf of Abbott.

2 (WHEREUPON, a certain document

3 was marked D'Amico Deposition

4 Exhibit No. 43, for identification,

5 as of 11/28/06.)

6 (WHEREUPON, the document was

7 tendered to the witness.)

8 MR. ZWICKER: The record should reflect that

9 before the witness is D'Amico Exhibit No. 43,

10 which is a MMPI monthly meeting agenda for a

11 meeting on June the 7th, 2001.

12 BY MR. ZWICKER:

13 Q. Ms. D'Amico, would you review it and

14 let me know when you're done?

15 A. Sure. Okay.

16 Q. Do you recognize the handwriting on

17 this document?

18 A. Yes.

19 Q. Whose is it?

20 A. Mine.

21 Q. All of it?

22 A. Yes.

23 Q. So this is now the third agenda where

24 you were the note taker; is that right?



D'Amico, Diane (Vol. 2) (Linked) 11/28/2006 9:06:00 AM

1 MR. LORENZINI: Objection.

2 BY THE WITNESS:

3 A. I took notes at this meeting, but I  
4 don't know if I was tasked with issuing the  
5 meeting minutes for this meeting.

6 BY MR. ZWICKER:

7 Q. Okay. But we looked at notes from  
8 March 8th and we looked at notes from April 12th  
9 and now we've looked at notes from June the  
10 seventh and you were the note taker for all three,  
11 correct?

12 MR. LORENZINI: Objection. Asked and  
13 answered.

14 BY THE WITNESS:

15 A. I took notes at all the meetings. That  
16 doesn't mean I would be the assigned note taker  
17 for issuing the minutes.

18 BY MR. ZWICKER:

19 Q. That wasn't my question.  
20 My question was you took the notes for  
21 all three of these meetings?

22 A. I took notes for the meetings. I don't  
23 know if I was the note taker.

24 Q. Were you the person that took notes at



## D'Amico Deposition Exhibit 8

P's Exhibit O

## MMPI WORKING GROUP MEETING MINUTES

3/8/01

Objective: Overall Project UpdateClinical Update*Azmi Nahulsi & Diane**D'Amico*

- A brief summary of the Leiden Portfolio Review held 3/7/01 - 3/9/01 was presented. Questions were raised regarding ABT-518 since several competitor MMPIs have been discontinued. We will proceed with the phase I trial. Pre-clinically our compound differs from the competition. In addition, the competitors may have dosed too low, may not have selected the proper tumor stages, and skipped Phase II development.
- The two M00-235 sites were initiated in February. Drug was shipped to both sites and the first patient is expected 3/12/01.

Toxicology Review*Lise**Loberg*

- An update of the two current toxicology studies was presented (see attached slides - Tox 030801A.xls and Tox 030801B.doc)
- Preliminary results from the three-month oral toxicity study in rats were discussed. Changes were seen in the high dose group (300 mg/kg) including decreased body weight, decreased food intake, dehydration and alopecia.
- The first three-month necropsy is planned for 4/10/01.
- The in-life phase of the six-week study has been completed. The process of integrating the mitochondrial function results with clinical pathology and histopathology has been initiated.

PK*Tawakol El-Shourbagy*

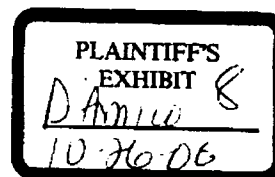
- The PK method validation process at Abbott is complete. NKI has not completed their PK method validation process to date. A teleconference will be scheduled within the next few days to determine the status of the PK method validation process at NKI.
- With the PK method validation complete, internal efforts will be directed towards finishing re-analysis of metabolites from toxicology studies conducted last fall. This work is needed for the IND.

PARD*John Cannon*

- An update of clinical supplies was presented (see attached slides - PARD 030801.doc).
- The first 200mg capsule campaign was completed by MDS Pharma Services in Tampa FL. A lower than expected yield rate of 73% resulted in the production of 4,870 acceptable capsules, of which 4,140 capsules will be sent for clinical supply. The low yield rate may be due in part to the larger than expected standard deviation variation for the empty capsules and to the process itself. PARD is looking into the exact cause(s).
- The rejected capsules and recovered bulk drug (deemed experimental) will be used for formulation and process development work. A rework step can be added to future runs to improve yield.

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ABBT300143



**MMPI WORKING GROUP MEETING MINUTES**

3/8/01

- The next 200mg capsule campaign is planned for June (10,000 capsules, 2 kg bulk drug). Based on the Phase I study in the Netherlands and the IND study design, the possibility of alternate capsule size (i.e., 50 or 100mg) has been discussed. PARC needs a 12-week lead-time from the time of dosing if the capsule size changes from the originally planned 200mg.
- The six-month stability data on 25mg capsules stored in bottles at 40C/75% RH showed some pitting (etiology unknown). At this time, there were no concerns with capsules stored at room temperature.

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ABBT300144





## D'Amico Deposition Exhibit 9

P's Exhibit S







## D'Amico Deposition Exhibit 10

P's Exhibit AA

MAY. 31. 2005 11:32AM

NO. 3057 P. 7

Diane L. D'Amico  
19-03-2001 16:23

To: Willy Jansen/HOOFDDORP/ABBOTT@ABBOTT  
cc: Else Molter/HOOFDDORP/ABBOTT@ABBOTT, Jim  
Loonen/HOOFDDORP/ABBOTT@ABBOTT, Paige  
Gibster/LAKE/PPRD/ABBOTT@ABBOTT, Todd J  
Jensen/LAKE/PPRD/ABBOTT@ABBOTT  
Subject: Re: MD0-235 Update

Dear Willy,

Our original feedback from Jim's early discussions with AZU indicated that the patient had been enrolled and the site would continue with the patient per the protocol. I sent an email to AZU on 12Mar01 confirming our approval that they continue per the protocol until they heard from us otherwise. Azri spoke with Zornberg and Voest mid-late last week to notify them that the hold had been lifted.

Based on these correspondences, I assumed Beerspot would treat the patient per the protocol. If we lost one PG sample, it is not the end of the world. We just need to document what happened.

As Jim mentioned, Azri is planning on meeting with both Voest (25Mar01) and Schellens (28Mar01) at AACR in New Orleans.

Best regards,

Diane

From: Willy Jansen on 03/19/2001 06:32 AM

From: Willy Jansen on 03/19/2001 06:32 AM  
To: Diane L. D'Amico/LAKE/PPRD/ABBOTT@ABBOTT  
cc: Else Molter/HOOFDDORP/ABBOTT@ABBOTT, Jim  
Loonen/HOOFDDORP/ABBOTT@ABBOTT, Paige  
Gibster/LAKE/PPRD/ABBOTT@ABBOTT, Todd J  
Jensen/LAKE/PPRD/ABBOTT@ABBOTT  
Subject: Re: MD0-235 Update

Dear Diane,

I'm very glad to hear that the hold for this study has been lifted. I have tried to reach the site to find out how the situation is after the closing of last week. Unfortunately, dr. Beerspot is on vacation and I don't have any further information yet from the site. Did the venture spoke with Prof. Voest about the enrollment of this patient? I know that the PG samples has been lost due to hold of the study. Has it been agreed with the site, that all assessments for this patient should be performed as described in the protocol? Please keep me informed about the arrangements with the site regarding this situation. Thanks for your help.

Kind regards,

Willy  
Diane L. D'Amico

Diane L. D'Amico  
03/19/01 07:30 PM

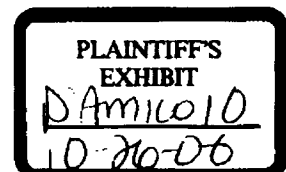
To: Else Molter/HOOFDDORP/ABBOTT@ABBOTT, Willy  
Jansen/HOOFDDORP/ABBOTT@ABBOTT, Jim  
Loonen/HOOFDDORP/ABBOTT@ABBOTT  
cc: Paige Gibster/LAKE/PPRD/ABBOTT@ABBOTT, Todd J  
Jensen/LAKE/PPRD/ABBOTT@ABBOTT  
Subject: MD0-235 Update

Dear Jim, Willy and Else,

What a long week this has been! Not only was this week long, but it was filled with ups and downs. Todd, Paige and I came in Monday morning to learn that the MMPI project had been put on hold. The

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ABBT 0033096



MAY. 31. 2005 11:32AM

NO. 3057 P. 8

next day, we learned that the hold had been lifted. I just hope that next week will be a little less eventful. :)

On a high note, one patient was enrolled into the study. Congratulations! As you can imagine, we (the MMPI Team) are very excited about pulling out in front of the TSP Team (all in good fun). We haven't heard any news on the patient, so we assume that "no news is good news". Presumably the patient was released today.

Did Dr. Schellens receive his Board of Director Approval? I know it was expected on the 14th, but we haven't received anything to indicate that the approval was granted.

A teleconference is scheduled with Dr. Hilde Rosing next week Tuesday to discuss the status of their PK validation. The Abbott PK Team did successfully validate their PK method, so our back-up is in place should it be needed. We are still optimistic that Dr. Rosing's team will validate soon and be ready for processing the PK samples.

Dr. Beerspoort sent some results to me this week from his PD validation work. The Abbott PD team is reviewing what Dr. Beerspoort sent. Dr. Beerspoort reported that he would have more results this week. So, this is moving along slowly but surely. No need to push at this time.

That seems to be it for this week. Please keep us posted on any enrollment activities next week.

Kindest regards,

Diane

P.S. Both Todd and I will be out the entire week of March 28, so please direct all issues to Paige.

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ABBT 0033097



## D'Amico Deposition Exhibit 27

P's Exhibit N



**MMPI MONTHLY MEETING AGENDA**  
**3/8/2001, 10:30-12:00, AP6A-1A**  
**Objectives: To Review MMPI Project Status**

- I. Clinical** - A. Nabulsi/ D. D'Amico  
 VERHEADS  
 • Leiden portfolio review 3/7  
 • M00-235 sites initiated 2/14 & 2/15  
 • Drug shipped 2/28 & 3/1  
 • First patient: Monday (3/12)  
 • IND timeline being revised (Mtg 3/9)
- II. Toxicology** - E. Loberg  
 JERHEADS  
 • 6 week rat study completed  
 • 3 month rat - 1<sup>st</sup> necropsy 4/10/01
- III. PK** - B. Carr/ M. Rieser/ Tawakol  
 VERHEADS  
 • PK method validation in human  
 report abt written yet  
 • plasma is complete for all 7 analytes.  
 • Finishing re-analysis of metabolites from toxicology studies (last fall).
- IV. PARD** - J. Cannon/ T. Garavalia  
 ICA HEADS  
 • Capsule update: Feton run at MDS Pharma) completed; 200mg capsules 73% yield  
 • Next finishing run scheduled for 6/01
- V. CAPD** - S. Wittenberg  
 • No Update
- VI. Discovery** - S. Davidson  
 • No Update
- VII. Metabolism** - D. Hickman  
 • No Update
- VIII. Next Team Venture Meeting**  
 When: Thursday, April 12, 2001  
 Where: AP6A-1A  
 Time: 10:30 - 12:00

- B.H. Pre-IND Timeline  
 - TS PK Validation  
 \* Act if PD data will ever be submitted  
 NOTES If so, audit.

① NEW: CAN WE CONTINUE IF COMPETITION IS DROPPING OUT? PRE-CLINICAL USE DIFFER. COMP TO LOW DOSE, MONO- vs COMBO. SKIPPED PH II, NOT RIGHT STAGE PURPOSES  
 → WELL LOCAL C ASCO / AACR FOR COMP INFO  
 → WELL ENDS IN 3-6 MO WHERE WE'VE STAYED  
 IND LEADER FOR AACR BY APR 22<sup>nd</sup> - HERE LOCAL C ABSTRACTS W/AN

→ ANDERGIL7 TELECONFERENCE ON 3/12 TO DISCUSS THE IND STUDY  
 \* FIND OUT CANCER TYPE FOR ALL PATIENT

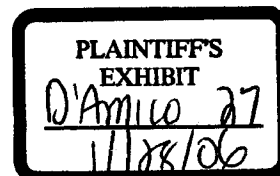
② 3 MONTHS: Take in vitro data plus data  
 In high dose group  
 • body weight gain, dehydration, alopecia; similar results to previous study on 070) & give more  
 6 wk. In life dose, necropsy all, assembling data on mitochondrial by next mth  
 groups; High dose group did recover body weight and food consumption after off drug  
 • Is there a CNS involvement? B.H. Evident to concern w/ ↓ body weight; possibly not just 2<sup>nd</sup> & food.

③ Call site w/ Matt & Tawakol to discuss status their validation  
 Needed for WD. When will be available? Bill Backus on top of it.

④ - Standard Deviation of empty capsule > than expected  
 - Dog behaved differently when filling the capsules  
 - 300 rejects → Use for development work. Must be designated "experimental." Next time - will incorporate rework steps for CMP use.  
 - June run @ MDS 2<sup>nd</sup> IDC facility, backed  
 - ALERT Gene stability update, pitting, drugs in bottles. No ... ..

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ABBT0045253





## D'Amico Deposition Exhibit 32

### P's Exhibit 3



Diane L  
D'Amico /LAKE/PPRD/ABBO  
TT  
03/12/2001 02:59 PM

To I.v.beerepoot@azu.nl  
b.zonnenberg@azu.nl, E.E.Voest@azu.nl,  
aeppling@digd.azu.nl, paige.m.gjelsten@abbott.com, Todd  
J Janus/LAKE/PPRD/ABBOTT@ABBOTT, Azmi A  
Nabulsi/LAKE/PPRD/ABBOTT@ABBOTT, Jim  
Looman/HOOFDDORP/AV/ABBOTT@ABBOTT, Willy  
cc Jansen/HOOFDDORP/ADD/ABBOTT@ABBOTT, Else  
Meijer/HOOFDDORP/AV/ABBOTT@ABBOTT, Diane C  
Bronson/LAKE/PPRD/ABBOTT@ABBOTT, Robert  
Hansen/LAKE/PPRD/ABBOTT@ABBOTT, Lori V  
Rountree/LAKE/PPRD/ABBOTT@ABBOTT  
bcc  
Subject M00-235 Patient

Dear Laurens,

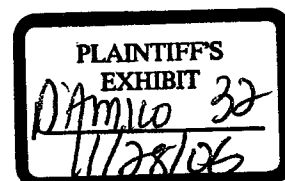
Please proceed with the M00-235 patient per the protocol until you hear from us otherwise. We hope to have further instructions for you tomorrow (Tuesday, 13Mar01).

We ask that you refrain from enrolling any additional patients at this time.

Thank you for your patience and understanding in this matter.

Best regards,

Diane



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ABBT0059464





D'Amico Deposition Exhibit 34

P's Exhibit AP



Diane L  
D'Amico /LAKE/PPRD/ABBO  
TT  
05/25/2001 03:52 PM

To Lise I Loberg/LAKE/PPRD/ABBOTT@ABBOTT  
cc Diane C Bronson/LAKE/PPRD/ABBOTT@ABBOTT  
bcc  
Subject Re: ABT-518 Tox

Lise-

Maybe you read the email below wrong. Can we wait until Diane says Yes/No? I don't want you to start something that is still on hold.

Thanks,

Diane

Lise I Loberg



Lise I Loberg  
05/25/01 03:23 PM

To: Diane L D'Amico/LAKE/PPRD/ABBOTT@ABBOTT  
cc: Diane C Bronson/LAKE/PPRD/ABBOTT@ABBOTT  
Subject: Re: ABT-518 Tox

Will do!  
Diane L D'Amico



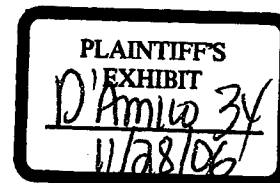
Diane L D'Amico  
05/25/01 03:01 PM

To: Diane C Bronson/LAKE/PPRD/ABBOTT@ABBOTT  
cc: Lise I Loberg/LAKE/PPRD/ABBOTT@ABBOTT  
Subject: ABT-518 Tox

Diane,

Can Lise proceed with any of the ABT-518 activities that were previously put on hold (i.e., very long chain fatty acid sample analysis from the 6-week rat study and histopath from the 3-month rat study)?

Diane



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ABBT0061200



D'Amico Deposition Exhibit 35

P's Exhibit AQ



Diane C  
Bronson/LAKE/PPRD/ABB  
OTT

05/28/2001 08:42 PM

To Diane L D'Amico/LAKE/PPRD/ABBOTT@ABBOTT

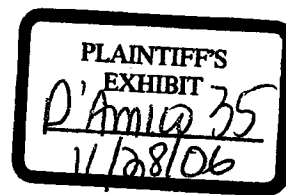
cc

bcc

Subject Re: ABT-518 Tox

I wouldn't authorize it just yet. Bob and Perry are working on some presentation for MMPI to the "big dogs". I'll forward it to you. If you want to talk to Bob and see if he knows anything new have at it I'll forward the presentation.

diane



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ABBT0057052





D'Amico Deposition Exhibit 41

P's Exhibit MI





Page ②

Other possibilitiesNon Cancer :

MS  
 Fibrosis — hepatic fibrosis  
 prolif ~~the~~ <sup>APF</sup> failure  
 retinopathy

IPF =  
 easy to measure  
 very attractive field  
 ↓  
 "immunology franchise"

Recent Plan to John/Jeff now (or May 4, 5th)

Nobody has ever gotten approval  
 for locally invasive disease.  
 History weak

Marinistat works in MS models. Does ours? Not known.  
 Can we do some pre-clinical work?

Steve: will give list of non-cancer to Laffie & Perry to  
 build stories for both

Finish Safety Study = \$X spent  
 If we move onto other — Gain \$X  
 Show Benefit

"Enthusiasm is inversely proportional to knowledge" — Perry





D'Amico Deposition Exhibit 43

P's Exhibit AY



Diane D'Amico

MMPI Meeting Mts

6/7/01

Agenda Intro

Ø FUNDING

Halt All Activities

PATIENTS WILL BE ABLE TO CONTINUE (THOSE ALREADY ENROLLED)

Enrollment already on hold 2<sup>o</sup> SAE

If we feel it is safe for other PT to continue - we will

If not, we will stop all PT

HARRISON CONCERN 2<sup>o</sup> CASE AT A WHILE 3<sup>o</sup> SAFETY TO DATE

↑ budget limitation

Plan:

3 ACTIVE PATIENTS: May go to NCI if safe

If 1<sup>st</sup> from 25 & 50 mg STAGE WOULD CLASH TO 1-3 MONTH

[REVISION FOR COLLABORATION] ← Ø include

AE: Ovarian CA, LONG-TERM, NEPHRECTOMY, NEPHRECTOMY SYMPTOM, HAS A  
 PATIENT 100% NEPHRECTOMY (WATER); KIDNEY FUNCTION FINE @ START OF  
 STUDY, CREATININE STABLE ↑. THEY ARE TRYING TO  
 1/2 OTHER CAUSES.

Ø COMMUNICATED TO SITE RE: LONG-TERM NDCO DECISION

FINN Brochure Revision = YES

